



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2010 REGULAR SESSION

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HOUSE BILL NO. 97

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WEDNESDAY, FEBRUARY 10, 2010

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The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED  
DATE April 12, 2010  
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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Allen

AN ACT relating to elections.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1        ➔ Section 1. KRS 118.176 is amended to read as follows:

- 2        (1) A "bona fide" candidate means one who is seeking nomination in a primary or  
3        election in a special or regular~~general~~ election according to law.
- 4        (2) The bona fides of any candidate seeking nomination or election in a primary,  
5        special, or regular~~general~~ election may be questioned by any qualified voter  
6        entitled to vote for the~~such~~ candidate or by an opposing candidate by summary  
7        proceedings consisting of a motion before the Circuit Court of the judicial circuit in  
8        which the candidate whose bona fides is questioned resides. An action regarding the  
9        bona fides of any candidate seeking nomination or election in a primary, special, or  
10       regular~~general~~ election may be commenced at any time prior to the  
11       regular~~general~~ election. The motion shall be tried summarily and without delay.  
12       Proof may be heard orally, and upon motion of either party shall be officially  
13       reported. If the Circuit Judge of the circuit in which the proceeding is filed is  
14       disqualified or absent from the county or is herself or himself a candidate, the  
15       proceeding may be presented to, heard and determined by the Circuit Judge of any  
16       adjoining judicial circuit.
- 17       (3) In any action or proceeding under this section the burden of proof as to the bona  
18       fides of a candidate shall be on the person challenging the bona fides of a candidate.
- 19       (4) If the court finds the candidate is not a bona fide candidate it shall~~must~~ so order,  
20       and certify the fact to the board of elections, and the candidate's name shall be  
21       stricken from the written designation of election officers filed with the board of  
22       elections or the court may refuse recognition or relief in a mandatory or injunctive  
23       way. The order of the Circuit Court shall be entered on the order book of the court  
24       and shall be subject to a motion to set aside in the Court of Appeals. The motion  
25       shall be heard by the Court of Appeals or a judge thereof in the manner provided for

1 dissolving or granting injunctions, except that the motion ~~shall~~must be made  
 2 before the court or judge within five (5) days after the entry of the order in the  
 3 Circuit Court, and may be heard and tried upon the original papers, and the order of  
 4 the Court of Appeals or judge thereof shall be final.

- 5 (5) No person shall approach the Circuit Judge for the purpose or view of influencing  
 6 his or her decision on the motion pending before the Circuit Judge~~him~~ or to be  
 7 tried by him or her.

8 ➔Section 2. KRS 118.315 is amended to read as follows:

- 9 (1) A candidate for any office to be voted for at any regular election may be nominated  
 10 by a petition of electors qualified to vote for him or her, complying with the  
 11 provisions of subsection (2) of this section. No person whose registration status is  
 12 as a registered member of a political party shall be eligible to election as an  
 13 independent, or political organization, or political group candidate, nor shall any  
 14 person be eligible to election as an independent, or political organization, or  
 15 political group candidate whose registration status was as a registered member of a  
 16 political party on January 1 immediately preceding the regular election for which  
 17 the person seeks to be a candidate. This restriction shall not apply to candidates to  
 18 those offices specified in KRS 118.105(7), for supervisor of a soil and water  
 19 conservation district, for candidates for mayor or legislative body in cities of the  
 20 second to sixth class, or to candidates participating in nonpartisan elections.
- 21 (2) The form of the petition shall be prescribed by the State Board of Elections. It shall  
 22 be signed by the candidate and by registered voters from the district or jurisdiction  
 23 from which the candidate seeks nomination. The petition shall include a declaration,  
 24 sworn to by the candidate, that he or she possesses all the constitutional and  
 25 statutory requirements of the office for which the candidate has filed. Signatures for  
 26 a petition of nomination for a candidate seeking any office, excluding President of  
 27 the United States in accordance with KRS 118.591(1), shall not be affixed on the

document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer or board of education member, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include the date he or she affixes the signature, address of residence, and date of birth. Failure of a voter to include the signature affixation date, date of birth, and address of residence shall result in the signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he or she shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his or her signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all

1 candidates who file with them to determine whether each petition is regular on its  
2 face. If there is an error, the Secretary of State or the county clerk shall notify the  
3 candidate by certified mail within twenty-four (24) hours of filing.

4 ➔Section 3. KRS 118.365 is amended to read as follows:

5 (1) Certificates of nomination issued by the State Board of Elections shall be filed by  
6 that board with the Secretary of State immediately. The certificates issued by the  
7 county board of elections shall be filed by that board with the county clerk  
8 immediately.

9 (2) Petitions of nomination for candidates for city offices except as provided in KRS  
10 83A.047, for candidates for members of boards of education, and for candidates for  
11 supervisors of soil and water conservation districts shall be filed with the county  
12 clerk not earlier than the first Wednesday after the first Monday in November of the  
13 year preceding the year in which the office will appear on the ballot and not later  
14 than the second Tuesday in August preceding the day fixed by law for the holding  
15 of regular elections for the offices sought.

16 (3) Candidates for an office, the nomination to which is to be made by a convention  
17 pursuant to KRS 118.325(1) and (2), except for the office of electors of President  
18 and Vice President of the United States, shall file the statements required by KRS  
19 118.325(3), with the official designated in KRS 118.165 with whom notification  
20 and declaration are filed for the office, not earlier than the first Wednesday after the  
21 first Monday in November of the year preceding the year in which the office will  
22 appear on the ballot and not later than the second Tuesday in August preceding the  
23 regular election for the office sought.

24 (4) Certificates of nomination made by the governing authority of a political party  
25 within the meaning of KRS 118.015 or a political organization not constituting a  
26 political party within the meaning of KRS 118.015 but whose candidate received  
27 two percent (2%) of the vote of the state at the last preceding election for

1 presidential electors to fill vacancies in office, as provided in KRS 118.115 and  
2 118.325, shall be filed as required with the Secretary of State or county clerk not  
3 earlier than the first Wednesday after the first Monday in November of the year  
4 preceding the year in which the offices will appear on the ballot and not later than  
5 the second Tuesday in August preceding the day fixed by law for the election of the  
6 person in nomination.

7 (5) Except as otherwise provided in this section, petitions of nomination shall be filed  
8 as required with the Secretary of State or county clerk not earlier than the first  
9 Wednesday after the first Monday in November of the year preceding the year in  
10 which the offices will appear on the ballot and not later than the second Tuesday in  
11 August preceding the day fixed by law for the holding of regular~~[general]~~ elections  
12 for the offices sought. Certificates of nomination shall be filed with the Secretary of  
13 State or county clerk, as required by law, not earlier than the first Wednesday after  
14 the first Monday in November of the year preceding the year in which the offices  
15 will appear on the ballot and not later than the second Tuesday in August preceding  
16 the day fixed by law for the holding of regular~~[general]~~ elections for the offices  
17 sought. The filing of petitions of nomination for independent, or political  
18 organization, or political group candidates shall not be accepted by the Secretary of  
19 State or the county clerk if the candidate has not filed a statement-of-candidacy  
20 form as required by KRS 118.367.

21 (6) Petitions and certificates of nomination for electors of President and Vice President  
22 of the United States shall be filed with the Secretary of State not earlier than the  
23 first Wednesday after the first Monday in November of the year preceding the year  
24 in which there is an election for President and Vice President of the United States  
25 and not later than the Friday following the first Tuesday in September preceding the  
26 date fixed by law for the election of the electors.

27 (7) Petitions for recall elections or elections on public questions shall be filed as

1 required with the county clerk not later than the second Tuesday in August  
 2 preceding the day fixed by law for holding a regular~~[general]~~ election.

- 3 (8) Petitions of any kind named in this section, statements, and certificates of  
 4 nomination shall be filed no later than 4 p.m. local time at the place of filing when  
 5 filed on the last date on which~~[such]~~ papers are permitted to be filed.

6 ➔Section 4. KRS 118.367 is amended to read as follows:

- 7 (1) An independent, or political organization, or political group candidate required to  
 8 file nomination papers pursuant to KRS 118.365(5) shall be required to file a  
 9 statement-of-candidacy form with the same office at which nomination papers are  
 10 filed. Candidates for federal office and candidates for mayor or legislative body in  
 11 cities of the second to sixth class participating in partisan elections shall not be  
 12 required to file a statement-of-candidacy form. The statement-of-candidacy form  
 13 shall be filed not earlier than the first Wednesday after the first Monday in  
 14 November of the year preceding the year in which the office will appear on the  
 15 ballot and not later than April 1 preceding the day fixed by law for holding of  
 16 regular~~[general]~~ elections for the offices sought. If the office in which the  
 17 statement-of-candidacy form is to be filed is closed on April 1, the form may be  
 18 filed on the next business day. The statement-of-candidacy form shall be filed no  
 19 later than 4 p.m. local time when filed on the last day on which papers are permitted  
 20 to be filed. No person shall file a statement-of-candidacy form for more than one (1)  
 21 public office during an election cycle.

- 22 (2) The statement-of-candidacy form shall be prescribed by the State Board of  
 23 Elections. The statement-of-candidacy form shall be signed by the candidate upon  
 24 filing. No charge shall be assessed for the filing of a statement-of-candidacy form.  
 25 The Secretary of State and county clerks shall examine the statement-of-candidacy  
 26 form of each candidate who files the form to determine if there is an error. If an  
 27 error has occurred, the candidate shall be notified by certified mail within twenty-

1 four (24) hours.

2 ➔Section 5. KRS 118.375 is amended to read as follows:

3 If a vacancy occurs in any elective office less than one hundred thirty-four (134) days  
 4 before the primary or at any time after the primary, but not less than three (3) months~~one~~  
 5 ~~hundred six (106) days~~ before the regular~~general~~ election, independent, or political  
 6 organization, or political group candidates may file their petitions at the time and place  
 7 provided~~for~~ in KRS 118.365, subject to the restrictions concerning party registration  
 8 and candidacy provided in KRS 118.315(1).

9 ➔Section 6. KRS 118.760 is amended to read as follows:

10 Nominations by political parties, as defined in KRS 118.015, to fill vacancies at special  
 11 elections shall be made in the~~such~~ manner~~as may be~~ determined by the governing  
 12 authority of the party in the territory in which the election is to be held. An independent,  
 13 or political organization, or political group candidate may be nominated at a special  
 14 election by a petition of electors qualified to vote for him or her. The independent, or  
 15 political organization, or political group candidate shall not be a registered member of  
 16 a political party prior to the filing of the petition as prescribed in KRS 118.770. The  
 17 form of the petition and the required number of signatures on the petition are set forth  
 18 in KRS 118.315(2).

19 ➔Section 7. KRS 118.770 is amended to read as follows:

20 When a writ of election or proclamation is issued to fill a vacancy as prescribed in KRS  
 21 118.710, 118.720, or 118.730, independent, or political organization, or political group  
 22 petitions and certificates of nomination may be filed twenty-eight (28) days before the day  
 23 of election, and if filed with the Secretary of State shall be immediately certified by him  
 24 or her to the proper county clerks.

25 ➔Section 8. KRS 118.775 is amended to read as follows:

26 A successful candidate in a special election held for the purpose of filling a vacancy in  
 27 any elective office shall take office immediately upon certification of the election results

1 by the State Board of Elections or the county board of elections in which the special  
 2 election was held, and administration of the oath of office.

3 ➔ Section 9. KRS 118A.100 is amended to read as follows:

- 4 (1) Candidates for an unexpired term of a judicial office to be filled at a regular election  
 5 shall be nominated at the primary next preceding the regular election in the manner  
 6 prescribed in KRS 118A.060 if the vacancy occurs not later than the second  
 7 Tuesday in January preceding the primary. If the vacancy occurs on or after that  
 8 date, the election to fill the unexpired term shall be held in accordance with the  
 9 procedures described in this section and Section 152 of the Constitution of  
 10 Kentucky.
- 11 (2) If in a regular election for judicial office no candidates nominated as provided in  
 12 KRS 118A.060 are available due to death, incapacity, or withdrawal, and the  
 13 candidates have not been replaced as provided in KRS 118A.060, the election to fill  
 14 the regular term shall be conducted in the manner prescribed in subsections (3)  
 15 through (11) of this section.
- 16 (3) Each candidate shall file a petition for ~~nomination~~~~[candidacy]~~ with the Secretary of  
 17 State not earlier than the first Wednesday after the first Monday in November of the  
 18 year preceding the year in which the election for the unexpired term will be held and  
 19 not later than the second Tuesday in August preceding the day fixed by law for  
 20 holding the regular election for the unexpired term. The petition shall be sworn to  
 21 by the candidate and by not less than two (2) registered voters from the district or  
 22 circuit from which he or she seeks nomination, before an officer authorized to  
 23 administer an oath. Signatures for nomination papers shall not be affixed on the  
 24 document to be filed prior to the first Wednesday after the first Monday in  
 25 November of the year preceding the year in which the office will appear on the  
 26 ballot. The petition shall be filed no later than 4 p.m. local time at the place of filing  
 27 when filed on the last date on which the papers are permitted to be filed.

- 1 (4) The petition for *nomination*~~[candidacy]~~ shall be in the form prescribed by the State  
 2 Board of Elections. *The petition shall include a declaration sworn to by the*  
 3 *candidate, that he or she possesses all the constitutional and statutory*  
 4 *requirements of the office for which the candidate has filed.* Titles, ranks, or  
 5 spurious phrases shall not be accepted on the petition and shall not be printed on the  
 6 ballots as part of the candidate's name; however, nicknames, initials, and  
 7 contractions of given names may be acceptable as the candidate's name.
- 8 (5) The Secretary of State shall examine the petition of each candidate to determine  
 9 whether it is regular on its face. If there is an error, the Secretary of State shall  
 10 notify the candidate by certified mail within twenty-four (24) hours of filing.
- 11 (6) The order of names on the ballot for each district or circuit, and numbered division  
 12 thereof if divisions exist, shall be determined by lot at a public drawing to be held in  
 13 the office of the Secretary of State at 2 p.m., standard time, on the Thursday  
 14 following the second Tuesday in August preceding the regular election.
- 15 (7) Not later than the *date set forth in KRS 118.215*~~[second Monday after the filing~~  
 16 ~~deadline for the regular election in a year in which there is no election for President~~  
 17 ~~and Vice President of the United States, or not later than the Thursday after the first~~  
 18 ~~Tuesday in September preceding a regular election in a year in which there is an~~  
 19 ~~election for President and Vice President of the United States,]~~ and after the order  
 20 of names on the ballot has been determined as required in subsection (6) of this  
 21 section, the Secretary of State shall:
- 22 (a) Certify to the county clerks of the respective counties entitled to participate in  
 23 the election of the various candidates, the name and place of residence of each  
 24 candidate for each office, by district or circuit, and numbered division thereof  
 25 if divisions exist, as specified in the petitions for *nomination*~~[candidacy]~~ filed  
 26 with *the Secretary of State*~~[him]~~; and
- 27 (b) Designate for the county clerks the office of the Court of Justice with which

1 the names of candidates shall be printed and the order in which they are to  
2 appear on the ballot.

3 (8) The ballot position of a candidate shall not be changed after the ballot position has  
4 been designated by the county clerk.

5 (9) The county clerks of each county shall cause to be printed on the ballot labels for  
6 the voting machines and on the absentee ballots for the regular election the names  
7 of the candidates for offices of the Court of Justice.

8 (10) The names of the candidates shall be placed on the voting machine in a separate  
9 column or columns or in a separate line or lines and identified by the words  
10 "Judicial Ballot," and in~~[-such]~~ a manner so that the casting of a vote for all of the  
11 candidates of a political party will not operate to cast a vote for judicial candidates.  
12 The words "Vote for one" or "Vote for one in each division," shall be printed on the  
13 appropriate location. The office, numbered division thereof if divisions exist, and  
14 the candidates therefor shall be clearly labeled. No party designation or emblem of  
15 any kind, nor any sign indicating any candidate's political belief or party affiliation,  
16 shall be used on voting machines or special ballots.

17 (11) The candidate receiving the highest number of votes cast at the regular election for a  
18 district or circuit, or for a numbered division thereof if divisions exist, shall be  
19 elected.

20 ➔Section 10. KRS 118A.190 is amended to read as follows:

21 (1) The State Board of Elections shall issue certificates of nomination or election for all  
22 primary and regular elections as provided in this section.

23 (2) Following a primary or regular election, the board of elections of each county shall  
24 make out duplicate certificates of the total number of votes received by each  
25 candidate, by circuit or district, and numbered division thereof if divisions exist.

26 *The certificate of the total number of votes shall be certified to the Secretary of*  
27 *State's Office not later than 12 p.m., prevailing time, on the Friday following the*


1     primary or regular election~~[The board shall deliver these certificates to the county~~  
 2     ~~clerk]~~. The clerk shall keep one (1) of the certificates in his or her office and, within  
 3     three (3) days of their receipt from the board, shall forward the other certificate by  
 4     mail to the Secretary of State who shall deliver it to the State Board of Elections.

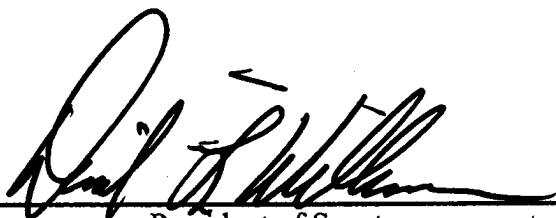
5     (3) ~~[When all the returns are received by ]~~The State Board of Elections~~[, the board]~~  
 6     shall meet to count and tabulate the votes received by the different candidates as  
 7     certified to the Secretary of State no later than the third Monday after the primary  
 8     or regular election.~~[ If all returns have not been received by the third Monday after~~  
 9     ~~the primary or regular election, the board shall, nevertheless, proceed with its duties~~  
 10    ~~at that time.]~~ When the board certifies the results of a primary or regular election~~[~~  
 11    ~~on the basis of incomplete returns]~~, the right to contest the election or primary shall  
 12    not be impaired. A majority of the members of the board shall constitute a quorum  
 13    and may act. The board shall prepare the certificates of nomination or election in the  
 14    office of the board, from the returns made. The certificates shall be in writing and in  
 15    duplicate, and shall be signed by the board members. The board shall forward the  
 16    original certificate, by mail, to the nominated or elected candidate, unless he or she  
 17    has failed to comply with KRS Chapter 121. The duplicate shall be retained in the  
 18    office of the board.

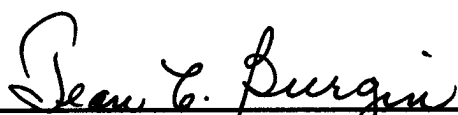
19    (4) Certificates of nomination for a judicial office shall be issued to the two (2)  
 20    candidates receiving the highest number of votes, except that if more than two (2)  
 21    candidates are found to have received the highest and an equal number of votes for  
 22    the same office or if two (2) or more candidates are found to have received the  
 23    second highest and an equal number of votes for the same office, the election shall  
 24    be determined by lot in the~~[such]~~ manner~~[as]~~ the board directs, in the presence of  
 25    not less than three (3) other persons.

26    (5) The certificate of election for a judicial office shall be issued to the candidate  
 27    receiving the highest number of votes, except that if two (2) or more candidates are

1 found to have received the highest and an equal number of votes for the same  
2 office, the election shall be determined by lot in ~~the~~<sup>such</sup> manner~~as~~ the board  
3 directs, in the presence of not less than three (3) other persons.

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date April 12, 2010